Immigration Reform and U.S. Agriculture

FRUIT AND VEGETABLE agriculture in the United States—especially in California and the Southwest—has employed immigrant workers for over a century. But in the early 1980s, immigration reforms, and particularly the Immigration Reform and Control Act (IRCA) of 1986, threatened to eliminate easy access to foreign workers.

IRCA's passage encouraged twenty-five social scientists to study the effects of immigration reforms in major farm labor states. Their findings, now available in book form and summarized here, show that IRCA did not discourage the expansion of labor-intensive agriculture, improve wages, increase employment, or improve working conditions for U.S. farm workers; neither did it create labor shortages. IRCA did accelerate a trend already underway—the shift from direct hire of farm workers to hiring farm labor contractor farm workers.

IRCA'S agricultural provisions

IRCA includes three major provisions that potentially impact agriculture: enforcement, legalization, and opening the border for legal farm workers if IRCA creates farm labor shortages.

Enforcement

Until IRCA, the border patrol simply drove into fields and apprehended aliens who tried to run away. Harvest-time raids could be disruptive; pre-IRCA studies found that farmers avoided illegal alien workers in time-sensitive activities, such as harvesting strawberries, and were more apt to use unauthorized workers to pick less time-sensitive crops, such as citrus.

After 1988, it became illegal for agricultural employers, like employers in other sectors, to knowingly hire illegal immigrants for farm work. Employers of illegal immigrants could be fined up to $10,000 per illegal worker hired and imprisoned for repeated offenses. However, IRCA also extended a safeguard to agricultural workplaces by requiring that the Immigration and Naturalization Service (INS) have a search warrant before raiding a workplace for illegal aliens. Enforcement became more difficult. For example, one study concluded that IRCA did not affect employment or wage trends in Florida agriculture because of "lax enforcement of employer sanctions and the entry of 'documented illegals' after IRCA."

Legalization

IRCA created two programs to legalize immigrant workers. The general program granted legal status on the basis of U.S. residence since 1982 and legalized about 70,000 farm workers. In addition, a Special Agricultural Worker, or SAW, program granted legal status to illegal aliens who did at least ninety days of qualifying farm work in the twelve months ending May 1, 1986. Not only could farm workers arrive in the United States four years later and still qualify for amnesty under the SAW program, but unlike applicants to the general program, they could have left the United States after doing the qualifying farm work and apply for U.S. immigrant status from abroad.

Applicants for the general legalization program scrambled to find employment records, rent receipts, and other evidence to show continuous residence in the United States since 1982. Most SAW applicants, on the other hand, simply submitted a short letter from a U.S. employer which said, for example, "I, Labor Contractor Juan Martinez, hereby

by J. Edward Taylor and Philip L. Martin
SAW Applicants

SAW applicants came from over one hundred countries. Almost 87 percent were from Mexico, Haiti, and El Salvador, as expected, but 1,700 Portuguese also claimed more than ninety days of farm work as illegal aliens in 1985–86, as did 750 Taiwanese and 4,800 Nigerians. Few researchers believed U.S. farms employed 35,000 illegal aliens from India and Pakistan for at least ninety days in 1985–86. Their suspicions seem confirmed by stories told by some of the 47,000 aliens who applied for SAW status in New York City. More than a few made comical assertions that they picked strawberries from ladders or harvested peaches in the middle of winter. INS rejected some of these false applications, but in the end, the burden of proof and manpower limitations permitted over 1 million aliens to become legal U.S. immigrants through the SAW program.

certify that Jose Carlos picked tomatoes for ninety-two days for me between June and October 1985.” The INS had to accept the application unless the agency could prove that the applicant did not perform the qualifying work as claimed.

The “easy” SAW program invited fraud. The New York Times (12 November 1989) called the farm worker legalization “one of the most extensive immigration frauds ever perpetrated against the U.S. government.” Over 1.3 million illegal aliens claimed to have done at least ninety days of farm work in 1985–86, even though U.S. Department of Agriculture (USDA) analysis of Current Population Survey data found that only 1.1 million persons performed seventy-five or more days of farm work for wages in 1985. Estimates based on pre-IRCA surveys of workers and the hours of work needed to produce fruits, vegetables, and other labor-intensive crops reinforced a USDA estimate of 350,000 illegal aliens employed in U.S. agriculture in the mid-1980s.

Safety valves
IRCA included two major types of temporary worker programs through which farmers could obtain legal foreign workers if labor shortages developed: contractual and noncontractual programs. Contractual programs tie a foreign worker to a particular job vacancy, and noncontractual programs admit foreign workers and give them work permits to hunt for jobs.

Contractual programs, such as the Bracero program (1942–64) and the H2 program, require planning. Under the H2 foreign worker program, for example, farm employers must develop job descriptions, determine the number of workers needed and when work will begin, guarantee at least the minimum or prevailing wage, arrange for free housing, and then attempt to recruit Americans. Only after they convince the Department of Labor (DOL) that they cannot find sufficient American workers can they bring in foreign workers for specific jobs. IRCA introduced a more streamlined, H2-A program that shortens the time for DOL to find U.S. workers.

However, western growers argued that ever-changing weather and crop conditions made such planning impossible. For them and most other crop farmers who found the H2-A program cumbersome, IRCA included a noncontractual Replenishment Agricultural Worker (RAW) program that could have admitted up to 1 million probationary immigrants between October 1, 1989, and September 30, 1993, to avert labor shortages due to SAWs leaving farm jobs. The number of RAWs was to be determined by the secretaries of agriculture and labor according to a complex formula. No RAW workers were admitted during the four-year life of the program, because the secretaries of agriculture and labor determined that IRCA did not create farm labor shortages. The number of H2-A farm workers has shrunk since 1986.

IRCA’S impacts on U.S. agriculture
Except for the fraudulent SAW program, IRCA did not legalize many farm workers, nor did it cause farm employers to hire only legal workers. IRCA may, however, have altered the structure of farm labor markets for years to come.

Employment, wages, and working conditions
Real wages in agriculture and other immigrant-dominated labor markets began slipping in the early
1980s (see figure 1). So did the influence of farm worker unions. The number of United Farm Workers contracts fell from 108 in 1978 to 28 in 1984–85. Minimum hourly wages in union contracts stagnated at $5 to $6, and piece rate wages—such as the prevailing $0.12 cents for cutting 25 pounds of raisin grapes and putting them on a paper tray to dry in the sun—remained unchanged for most of the 1980s. Unions and others concerned about the working poor argued that illegal immigration must be reduced.

Findings by post-IRCA studies confirm that IRCA did not create labor shortages or counteract falling real wages in agriculture. Real U.S. farm wages rose slightly from 1984–85 but then fell (figure 1). IRCA did not affect employment or drive up labor costs in any major U.S. region, nor in the United States as a whole, according to researchers. IRCA had no significant impact on employment, remuneration, or working conditions for a wide range of commodities, including New York apples, Florida citrus and nursery products, and California table grapes.

In fact, labor-intensive fruit, vegetable, and horticultural production expanded after IRCA. Studies of California, Oregon, New Mexico, and Washington agriculture document increased production after 1986. Nationally, the area planted in labor-intensive fresh vegetables increased 15 percent between 1970 and 1992, with nearly all of this increase occurring in the 1980s.

Study after study shows such an ample supply of labor that farmers did not need to raise wages to attract workers. Indeed, the opposite often happened. Farmers reported that in 1988–89, some workers simply joined a crew in the fields and hoped to be paid.

**IRCA and labor contractors**

Labor gluts in the late 1980s went hand in hand with another unexpected development—the spread of farm labor contractors (FLCs). FLCs now play an unprecedented role in the farm labor market. Seventy percent of Florida citrus growers, for example, rely on workers from farm labor contractors. In California, FLC employment surged up while direct employment in the growing vegetable sector fell. Similar trends occurred in Oregon and New Mexico, in apple production in New York and Pennsylvania, and in tomato production in Florida. A rising trend in FLC use was already underway, but IRCA accelerated this trend by creating new incentives for farmers to use FLCs, as evidenced in the California data.

For decades, FLCs promised to make seasonal farm labor markets more efficient. With a comparative advantage in recruiting seasonal workers, FLCs can quickly mobilize harvest crews. Seasonal workers can benefit from the FLCs' ability to arrange for them a series of harvest jobs on different farms. But FLCs typically hold an inferior bargaining position vis-à-vis farmers who share information about what FLCs charge, and they hold a superior position vis-à-vis new and vulnerable immigrant workers. Surveys of FLCs reveal that labor contractors agree with farmers to do a job for a money-losing commission, and then violate immigration and labor laws to make a profit.

IRCA's employer sanctions make most FLCs solely liable for immigration law violations, so IRCA gave farmers an unexpected incentive to use FLCs. Many legalized workers became FLCs. Competition among FLCs made the cost of a seasonal FLC workforce as low or lower than workers hired directly.

In many cases, hiring immigrant workers indirectly through FLCs has turned the "people issue" of dealing with seasonal workers into an impersonal transaction equivalent to securing farming in-
puts such as fertilizer. The separation of farm operators and farm workers and an ample supply of workers through FLCs has moved labor far down the list of priorities for many growers of labor-intensive commodities.

Why didn’t IRCA produce the expected upsurge in wages and benefits?

**IRCA and illegal immigration**
Most pre-IRCA studies concluded that illegal immigrants filled 20 to 25 percent of seasonal farm jobs in labor-intensive commodities in California. The percentage of illegal aliens was generally lower in other states, both because legal H2 workers were employed along the East Coast, and because Hispanic workers often aroused the suspicion of enforcement authorities in states such as North Carolina, New York, and Kentucky.

The SAW program had the anticipated consequence of increasing the share of Hispanic immigrant workers in states like California, where they were traditionally employed. But it also legitimized the presence of Latinos throughout rural America. Most of the Hispanic workers now common in rural communities have work authorization documents, but in many cases these documents were purchased from labor contractors or at flea markets, not issued by the U.S. government.

Legalization taught even poor and unsophisticated rural residents in Mexico and Central America that they could purchase the documents needed to work in the United States. Researchers tried to ascertain the legal status of the workers in the areas and commodities they studied, and they found that illegal aliens were typically 25 to 35 percent of peak seasonal employment in the early 1990s and rising. After the legalization of over 1 million farm workers, this is clear evidence that illegal immigration continues.

**Low-skill labor in ample supply**
Our research indicates that a large supply of low-skill foreign labor will be readily available at minimum U.S. wages for the rest of this century. Farm workers will remain the “poorest of the working poor,” and rural poverty will increase.

---

For more information